



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 11, 2018
MAHS Docket No.: 17-013611
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on January 4, 2018, from Lapeer, Michigan. The Petitioner was represented by [REDACTED], Paralegal with Legal Services of Eastern Michigan. The Department of Health and Human Services (Department) was represented by Lorie Pope, Partnership.Accountability.Training.HOPE. (PATH) Worker; [REDACTED] [REDACTED], Family Independence Specialist; and [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly close Petitioner's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FIP and FAP benefits.
2. On October 12, 2017, the Department received Petitioner's request for hearing disputing the Department's actions.
3. On August 1, 2017, the Department mailed Petitioner a PATH Appointment Notice advising her she had to attend an appointment on August 9, 2017. The

Department advised Petitioner that she was required to complete 30 hours in the program per week. Petitioner attended the August 9, 2017, appointment and began participating in the PATH program through Michigan Works.

4. On September 26, 2017, Petitioner signed a re-engagement agreement with Michigan Works as she had used her two excused attendance days for September and was requesting additional excused days away from the program for the week of September 17-23, 2017. Petitioner was advised that an additional missed assignment could result in the closure of her FIP case.
5. On September 27, 2017, Petitioner submitted documentation to the Department, regarding her daughter and herself. The documentation did not state Petitioner was unable to participate in the PATH program nor that it was necessary for her to be at home with her daughter. [Exhibits D, E, #1.]
6. Petitioner did not meet the required hours for the week beginning September 24, 2017, or the week beginning October 1, 2017.
7. On October 9, 2017, the Department mailed Petitioner a Notice of Noncompliance indicating she would be held in noncompliance of the FIP program and that it would close for a minimum of three months. Petitioner was also advised that she would be disqualified for one month or until compliance, whichever was longer, from FAP benefits.
8. On October 9, 2017, the Department sent Petitioner a Notice of Case Action advising her that her FIP benefits would close and FAP benefits would be decreased.
9. On October 12, 2017, the Department received Petitioner's request for hearing disputing the Department's actions.
10. On October 19, 2017, the Department held a telephone triage with Petitioner at her request. Petitioner alleges she was unable to meet the requirements of the PATH program due to psychological/medical issues with her ■-year-old daughter and her own personal psychological/medical issues. Petitioner has not submitted any documentation signed by a medical doctor indicating that she is unable to participate in the PATH program.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner requested a hearing to dispute the Department's actions with regards to her FIP and FAP benefits. The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A (October 2015), p. 1. Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership.Accountability.Training.Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* An individual may be required by the Department to attend appointments with doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. BEM 230A, p. 3. The failure to cooperate with assessment may prevent the Department from providing a deferral from PATH. BEM 230A, p. 3. All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. WEIs who are temporarily deferred are required to participate in activities that will help them overcome barriers and prepare them for employment or referral to an employment service provider. BEM 230A, pp. 4-5.

Once a client claims a disability he/she must provide the Department with verification of the disability when requested. BEM 230A, p. 12. The Department provided Petitioner with psychiatric/medical needs forms for information from her doctor(s) to ascertain whether Petitioner had a need for a deferral from PATH due to a disability. Petitioner submitted completed forms to the Department. The Department advised Petitioner that the forms had to be signed by a doctor. None of the documentation that was signed by a doctor indicated Petitioner had a need for a deferral from the program. [See Exhibits D, E and #1.]

Because Petitioner did not provide the required documentation from which the Department could determine that a doctor had determined that due to her own or her daughter's disability she was unable to participate in PATH, Petitioner was not deferred from attendance in the program. Without the deferral, Petitioner was required to continue to meet the weekly requirement of 30 hours per week. After Petitioner failed to meet the requirements of PATH on more than one occasion, the Department closed her FIP benefits, after finding her to be in noncompliance with program requirements.

The Department held a triage on October 19, 2017, in accordance with policy. Petitioner was unable to establish good cause for failing to meet the requirements of the PATH program. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented. BEM 233A (April 2016), p. 4.

Petitioner suggests that since the Department did not find the documentation provided by her to be sufficient for the granting of the deferral that they should look to the other documentation in her file to make the determination on whether she should be given a deferral. If the client does not provide a good cause reason for the noncompliance, determine good cause based on the best information available. BEM 233A (April 2016), p. 14. Petitioner testified that the documentation [Exhibit E], signed by her therapist should suffice because her psychiatrist signs off on the therapist's documents. Nothing signed by the psychiatrist was submitted by Petitioner to the Department indicating that there was agreement with the therapist's findings that Petitioner should be deferred from participation in the PATH program.

As such, it is found that the Department followed policy when it closed Petitioner's FIP case due to noncompliance with the requirements of the PATH program.

A FAP group member is disqualified from receipt of FAP benefits for noncompliance when: (i) both the FAP and FIP cases were active on the date of FIP noncompliance; (ii) there was noncompliance with employment requirements; (iii) no good cause existed for the noncompliance; and (iv) the group member was subject to a penalty on the FIP program. BEM 233B (January 2018), p. 3. In this case, BEM 233B is applicable to the circumstances of Petitioner's case, as described above. Therefore, it was proper for the Department to decrease Petitioner's FAP benefits because she was not eligible for FAP benefits due to the noncompliance with the requirements of FIP.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FIP benefits and decreased Petitioner's FAP benefits.

Accordingly, the Department's decision is **AFFIRMED**.



DM/jaf

Denise McNulty
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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